

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re:	)	
	)	
PROCEDURE FOR RELEASE	)	General Order No. <u>95-2</u>
OF FUNDS HELD UNDER	)	
GARNISHMENT	)	

**ORDER**

At Alexandria, in said District, this 31st day of July, 1995:

In order to reduce delay and costs to individual debtors seeking release of funds held under pre-petition garnishments while protecting the interests of judgment creditors and the bankruptcy estate, and after considering the recommendation of the Bar Liaison Committee for the Alexandria Division, it is hereby

**ORDERED**, effective August 1, 1995:

1. An individual debtor seeking the release of funds held pursuant to a pre-petition garnishment may, in addition to any other remedy or procedure authorized by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, file with the Court a Notice and Motion for Order Authorizing Release of Funds Held Under Garnishment in the form attached hereto as Exhibit 1. Prior to or simultaneously with such filing, the debtor shall serve a true copy of the Notice and Motion upon the judgment creditor and any trustee appointed in the bankruptcy case and shall certify such service on the original filed with this Court.

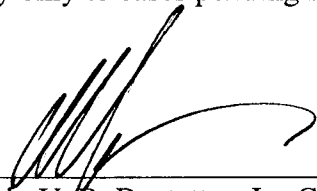

2. At the time the Notice and Motion are filed with the Court, the debtor shall furnish the Clerk with envelopes with sufficient postage affixed for first class mailing addressed to the debtor, judgment creditor, and trustee.

3. The judgment creditor and the trustee shall have ten (10) days from the date of service of the Notice and Motion to file an objection or response thereto. A copy of the objection must be served on the debtor. If the objection is filed by the trustee, it must also be served on the judgment creditor. If the objection is filed by the judgment creditor, it must also be served on the trustee.

4. If no timely objection is filed, the Clerk is authorized on the eleventh day after service of the Notice and Motion (or the nearest business day thereafter) to enter an Order Authorizing Release of Garnishment in the form attached hereto as Exhibit 2, and shall mail copies to the debtor, judgment creditor, and trustee.

5. If an objection is filed, or if the debtor fails to supply addressed envelopes with sufficient postage, the Clerk shall set the matter on the Court's docket for hearing and determination and shall provide the debtor with notice of the hearing date. It shall be the debtor's responsibility to give notice of the hearing date to the trustee and judgment creditor.

6. The provisions of this Order shall apply only to cases pending in the Alexandria Division of this District.

  
\_\_\_\_\_  
Martin V. Bostetter, Jr., Chief Judge  
\_\_\_\_\_  
Douglas O. Tice, Jr., Judge  
\_\_\_\_\_  
Stephen S. Mitchell, Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re: \_\_\_\_\_ )  
 )  
 ) Case No. \_\_\_\_\_  
 )  
SSN: \_\_\_\_\_ ) Chapter \_\_\_\_\_  
Debtor(s) \_\_\_\_\_ )

**NOTICE AND MOTION FOR ORDER AUTHORIZING  
RELEASE OF FUNDS HELD UNDER GARNISHMENT**

1. The debtor(s) filed a voluntary petition under chapter \_\_\_\_ of the Bankruptcy Code in this Court on \_\_\_\_\_.
2. At the time the petition was filed, certain sums, in the approximate amount of \$\_\_\_\_\_, were being held as a result of a garnishment summons or process issued by \_\_\_\_\_ [full name and location of court]. The garnishment process was issued on behalf of \_\_\_\_\_ [full name of judgment creditor] to enforce a judgment against \_\_\_\_\_ [full name(s) of defendant(s)] and has been served on \_\_\_\_\_ [full name of employer, bank, or other garnishee].
3. The debtor has claimed the funds held under garnishment as exempt on the schedule of exempt property filed in this case.
4. **NOTICE:** Any party objecting to such funds being released to the debtor must file a written response or objection with the Clerk of Court, United States Bankruptcy Court, Eastern District of Virginia, 206 N. Washington Street, Room 401, Alexandria, Virginia 22314 within ten (10) days of the mailing of this Notice and Motion. A copy of the objection must be served on the debtor. If the objection is filed by the trustee, it must also be served on the judgment creditor. If the objection is

filed by the judgment creditor, it must also be served on the trustee. If an objection is filed, the motion will be set for hearing, and separate notice of the hearing will be provided. Otherwise an order granting the requested relief may be entered without a hearing.

WHEREFORE, the debtor(s) pray for entry of an order authorizing the release of the funds held under garnishment.

\_\_\_\_\_  
[Signature of Attorney for Debtor or pro se debtor]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[Address and Telephone Number]

Certificate of Service

I hereby certify that I have this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, mailed a true copy of the foregoing Notice and Motion to [insert names and addresses]:

trustee

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

judgment creditor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[Signature]

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re: \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 ) Chapter \_\_\_\_\_  
 )  
SSN: \_\_\_\_\_ )  
Debtor(s) \_\_\_\_\_ )

**ORDER AUTHORIZING RELEASE OF GARNISHMENT**

Upon consideration of the Notice and Motion of the debtor(s) for an order authorizing the release of garnished funds claimed exempt by the debtor; and it appearing that at the time this case was commenced, funds in the approximate amount of \$ \_\_\_\_\_ were being held under a garnishment summons issued on behalf of \_\_\_\_\_ [judgment creditor] by the \_\_\_\_\_ [name of court issuing the garnishment]; and it further appearing that the debtor has certified that service of the Notice and Motion has been made upon the proper parties, and that no timely objections have been filed; it is hereby

**ORDERED:**

1. Within 10 days of the entry of this Order, the judgment creditor shall file a copy of this order and a praecipe or other proper pleading dismissing or requesting dismissal of the garnishment with the Clerk of the court that issued the garnishment process.
2. Upon being furnished with a copy of this Order, the garnishee shall promptly release all garnished funds to the debtor.
3. The debtor shall preserve any funds received pursuant to this Order in accordance with the Order to Debtor previously entered in this case and shall account to the trustee for such funds.

Alexandria, Virginia

Date: \_\_\_\_\_

BY THE COURT:

Robert M. Wily, Clerk

By: \_\_\_\_\_  
Deputy Clerk

**EXHIBIT 2**